

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

UNITED STATES OF AMERICA,) CR 12-11-H-DLC
)
Plaintiff,)
)
vs.) ORDER
)
SHAWN BRIAN ELTRINGHAM,)
JR.,)
)
Defendant.)
)

On March 22, 2012, the Court granted Defendant Eltringham's unopposed motion under 18 U.S.C. § 4241 for a hearing to determine the Defendant's competency to stand trial. The Defendant was transported to a Bureau of Prisons facility to be evaluated, and the results of that evaluation have now been distributed to the parties. The Court set a competency hearing for July 26, 2012, as is contemplated by 18 U.S.C. §§ 4241(c) and 4247(d). The United States has now filed a motion for a pretrial conference, to which the Defendant does not

object. Although it is not stated explicitly, the motion implies that the parties agree that the Defendant is competent to stand trial and that no hearing on competency is necessary.

The statutes setting forth the procedures for determining competency, which are contained in Chapter 313 of Title 18 of the United States Code, state that the process for determining competency will culminate in a hearing before the Court, not in a written evaluation. There appears to be no formal mechanism in the statute by which the hearing may be waived. Nonetheless, the Court is willing to consider a joint motion to waive the hearing. Such motion, if it is to be granted, must reflect each party's acknowledgment of the statutory right to a hearing, waiver of such hearing, and stipulation that the Defendant is competent to stand trial and is able to assist in his defense.

Accordingly, IT IS HEREBY ORDERED that the unopposed motion for a pretrial conference (Doc. No. 27) is DENIED, subject to renewal upon compliance with the process set forth above.

DATED this 19th day of July, 2012.



Dana L. Christensen, District Judge
United States District Court